



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes OPC, OPN, MND, MNR, MNDC, MNSD, FF

### Introduction

This hearing was convened by way of conference call concerning an application made by the landlord seeking an Order of Possession for cause; an Order of Possession for the tenant's written notice to end the tenancy; for a monetary order for unpaid rent or utilities; for a monetary order for damage to the unit, site or property; for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; for an order permitting the landlord to keep all or part of the pet damage deposit or security deposit; and to recover the filing fee from the tenant for the cost of the application.

The landlord attended the hearing, gave affirmed testimony, and provided evidentiary material in advance of the hearing. However, the line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony and no one for the tenant joined the call. The landlord testified that the tenant was served with the hearing package containing the Landlord Application for Dispute Resolution and notice of this hearing on November 19, 2016 by serving a person who apparently resided with the tenant at the rental unit.

The landlord testified that the tenant has moved out of the rental unit and may have already moved out before the landlord served the hearing package, and the landlord did not have time to serve the documents by registered mail. The tenant travels a lot, and was in the process of moving out without paying rent. The tenant has not provided the landlord with a forwarding address, and the landlord simply seeks a monetary order for \$2,500.00 for unpaid rent for the month of November, 2016.

The *Residential Tenancy Act* does not permit a hearing package to be served by serving a person who apparently resides with the tenant if the landlord is claiming monetary compensation. Where a landlord seeks an Order of Possession, that method is acceptable, but not for monetary claims. That *Act* specifically states:

- 89** (1) An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, when required to be given to one party by another, must be given in one of the following ways:
- (a) by leaving a copy with the person;
  - (b) if the person is a landlord, by leaving a copy with an agent of the landlord;
  - (c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;
  - (d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;

- (e) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*].
- (2) An application by a landlord under section 55 [*order of possession for the landlord*], 56 [*application for order ending tenancy early*] or 56.1 [*order of possession: tenancy frustrated*] must be given to the tenant in one of the following ways:
- (a) by leaving a copy with the tenant;
  - (b) by sending a copy by registered mail to the address at which the tenant resides;
  - (c) by leaving a copy at the tenant's residence with an adult who apparently resides with the tenant;
  - (d) by attaching a copy to a door or other conspicuous place at the address at which the tenant resides;
  - (e) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*].
- (3) A notice under section 94.21 [*notice of administrative penalty*] must be given in a manner referred to in subsection (1).

The landlord has not served the tenant in accordance with Section 89, and therefore I dismiss the landlord's application.

The landlord testified that she currently holds a security deposit in the amount of \$1,250.00 but has not been provided with a forwarding address in writing from the tenant. The landlord is not required to return it to the tenant unless the tenant provides a forwarding address in writing within a year of the date the tenancy ends.

### Conclusion

For the reasons set out above, the landlord's application is hereby dismissed.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: December 30, 2016

---

Residential Tenancy Branch